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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

ERICA SUAREZ,

Defendant and Appellant.

H045564

(Monterey County

Super. Ct. No. SS151113)

Defendant Erica Suarez appeals from a three-year split sentence imposed after she repeatedly violated the terms of her felony probation. Defendant argues that the trial court abused its discretion by refusing to reinstate probation because her probation violations were all caused by her addiction to controlled substances. But the violations appear to have been resolved in the manner defendant proposed to the trial court. Finding no abuse of discretion, we will affirm the judgment.

I. TRIAL COURT PROCEEDINGS

According to a probation report, defendant was arrested after she fled the scene of a car accident she had caused. The car defendant was driving had been reported stolen. Defendant acknowledged that she knew the car was stolen, but claimed that a man had threatened to kill her if she did not agree to drive the car to a different city.

Defendant was charged with driving or taking a vehicle without permission as a felony (Veh. Code, § 10851, subds. (a)) and two misdemeanors (hit and run driving (Veh. Code, § 20002, subd. (a)) and driving without a valid license (Veh. Code, § 12500,

subd. (a))). The parties reached a negotiated disposition under which defendant pleaded no contest to the felony count and the court postponed sentencing for one year to allow defendant to complete a drug treatment program. For successful completion of the program, the court would reduce the charge to a misdemeanor (Pen. Code, § 17, subd. (b)), but failure to complete the program would result in defendant being placed on felony probation.

Defendant was terminated from a drug treatment program about six months after the change of plea hearing. The trial court suspended imposition of sentence and placed defendant on three years' formal probation. Conditions of probation included 120 days in county jail and successful participation in a residential drug treatment program.

Later that month, defendant tested positive for methamphetamine and opiates and admitted to the probation officer using methamphetamine and heroin. She then failed to report to a probation appointment and failed to appear at a probation violation hearing, resulting in a bench warrant. Defendant was arrested about six months later on new misdemeanors, including shoplifting (Pen. Code, § 459.5). The trial court revoked and reinstated probation, including conditions that she serve an additional 120 days in county jail and that she complete a long-term residential drug treatment program.

A new probation violation petition was filed a few months later alleging that defendant had failed to report to probation for transportation to a drug treatment program, had continued to use controlled substances, and had failed to report to a scheduled probation department appointment. A further violation was alleged after defendant was accused of committing forgery (Pen. Code, § 470, subd. (d)). Another violation petition was filed the following month, alleging defendant's discharge from the residential drug treatment program and failure to report to the probation department after being discharged.

At the probation violation hearing, defense counsel did not request that probation be reinstated. When asked how the defense wished to proceed, counsel stated:

“[defendant] would be prepared to admit violations of probation based on two new misdemeanor cases The agreement would be that those matters would be dismissed with *Harvey* waivers in exchange for the admissions of violations of probation. We would be requesting the Court impose a split sentence in the form of one year in custody minus, I believe, 144 credits, with two years on mandatory supervision, with intent to release to a drug program as deemed appropriate by probation.” Defendant answered affirmatively when asked personally if she agreed with the proposed disposition. The trial court imposed the three-year upper term for the Vehicle Code section 10851 count. The court ordered that the sentence be served as a split sentence, with the first 364 days (less presentence credits) to be served in county jail and the remaining two years to be suspended during a period of mandatory supervision.

II. DISCUSSION

Defendant’s sole appellate argument is that the trial court abused its discretion by imposing sentence instead of reinstating probation. “Sentencing choices such as the one at issue here, whether to reinstate probation or sentence a defendant to prison, are reviewed for abuse of discretion.” (*People v. Downey* (2000) 82 Cal.App.4th 899, 909.) (The People argue that this appeal must be dismissed because defendant failed to obtain a certificate of probable cause, but a certificate was not necessary here because defendant’s argument relates to the trial court’s failure to reinstate probation and does not attack the validity of the underlying plea agreement.)

Defendant argues the trial court should have reinstated probation because all probation violations were caused by her addiction to controlled substances. She attacks as perfunctory the trial court’s conclusion that she was not amenable to probation. But defendant’s briefing inexplicably omits the fact that she *agreed* to the very sentence she received in return for dismissal of the new misdemeanor charges and a further opportunity to participate in drug treatment. A trial court does not abuse its discretion when it accepts a defendant’s admission of probation violations and imposes sentence at

defendant's request. (See *People v. Coffman and Marlow* (2004) 34 Cal.4th 1, 49 [“ ‘The doctrine of invited error is designed to prevent an accused from gaining a reversal on appeal because of an error made by the trial court at his behest.’ ”].)

Even without defendant's assent to imposition of sentence, we see no abuse of discretion. Contrary to defendant's characterization, this is not a case involving “technical” violations of probation. Despite being given several chances over more than a year on probation, defendant repeatedly violated the terms of her probation. Defendant argues she was previously gainfully employed and was “seeking to salvage her life through rehabilitation,” but the record is insufficient to support that assertion. The evidence before the trial court showed that while on probation defendant committed multiple new criminal offenses, failed to report, failed to appear, failed to enter one drug treatment program, and was discharged from another. Between counsel's neglect in properly presenting the record and defendant's own request for the sentence imposed, we are hard-pressed to see how this appeal is not frivolous and sanctionable.

III. DISPOSITION

The judgment is affirmed.

Grover, J.

WE CONCUR:

Greenwood, P. J.

Elia, J.